

Message Text

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C O N F I D E N T I A L QUITO 0201

E.O. 11652: GDS
TAGS: PINT, PINR, EC
SUBJECT: GOE PACKS THE SUPREME COURT

REF: QUITO 0186;

1. THE SUPREME COUNCIL REPLACED THE PRESIDENT AND 8 JUSTICES OF THE 16 MEMBER SUPREME COURT ON JANUARY 6. WHILE BILLING THE ACTION AS A JUDICIAL REORGANIZATION, THE DECREE REALLY MERELY CHANGES HALF THE INCUMBENTS OF THE SUPREME COURT AND ALLOWS FOR THE WHOLESALE TURNOVER OF PERSONNEL IN INFERIOR COURTS. NO CHANGE OF JUDICIAL STRUCTURE IS ANTICIPATED BY THE DECREE.

2. REPLACING OUTGOING SUPREME COURT PRESIDENT CESAR DURANGO IS GONZALO KAROLYS MARTINEZ, A MARXIST OPPORTUNIST AND ATTORNEY GENERAL DURING THE RODRIGUEZ LARA GOVERNMENT. OTHER NEWCOMERS (ASIDE FROM RAMIRO BORJA, PRESIDENT OF THE SECOND CONSTITUTIONAL COMMISSION) ARE NOT PARTICULARLY NOTABLE. SEVERAL ARE REPORTED TO HAVE HELD OTHER, MINOR, POSITIONS IN THIS GOVERNMENT.

3. SINCE NO REAL REORGANIZATION OR REFORM IS ESTABLISHED
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BY THE DECREE, IT APPEARS THAT THE GOE'S PURPOSE IS TO PACK THE JUDICIARY WITH INDIVIDUALS WHO CAN BE COUNTED UPON TO BE FRIENDLY TO THE MILITARY GOVERNMENT'S INTERESTS. THIS IS PARTICULARLY IMPORTANT AS THE MILITARY PREPARES TO SURRENDER POWER BECAUSE THE CURRENT PLAN TO RETURN ECUADOR TO CIVILIAN GOVERNMENT CONTEMPLATES THAT THE SUPREME COURT WILL ASSUME SEVERAL LEGISLATIVE FUNCTIONS BETWEEN

THE PRESIDENTIAL INAUGURATION AND THE FORMATION OF THE LEGISLATURE. THE TRIBUNAL OF CONSTITUTIONAL GUARANTEES, THE ONLY INSTITUTIONAL CHECK ON PRESIDENTIAL POWER DURING THAT INTERVAL, IS TO BE NAMED BY THE SUPREME COURT. ALSO, AFTER THE LEGISLATURE TAKES OFFICE, THERE IS THE EXPECTATION THAT IT WILL ATTEMPT TO PUNISH THE MILITARY FOR SINS COMMITTED DURING THIS GOVERNMENT. A SUPREME COURT MAJORITY WITH A DEBT TO THE PREVIOUS MILITARY GOVERNMENT WOULD BE IN A POSITION TO FILTER AND DIMINISH ANY SUCH EFFORT. FURTHER, BY DECREETING THAT THE NEWLY NAMED JUSTICES SHALL SERVE THE FULL TERMS ESTABLISHED BY LAW (FOUR YEARS), THE MILITARY HOPES TO EXTEND ITS INFLUENCE WELL INTO THE CIVILIAN GOVERNMENT.

4. THE MOST CONTROVERSIAL OF THE APPOINTEES IS GONZALO KAROLYS, THE NEW COURT PRESIDENT. BORN IN 1923, HE RECEIVED A DOCTORATE IN INTERNATIONAL LAW AT QUITO'S CENTRAL UNIVERSITY WHERE HE WAS PRESIDENT OF FEUE, THE LEFTIST NATIONAL UNIVERSITY STUDENTS ASSOCIATION. DURING THE RODRIGUEZ LARA GOVERNMENT, WHEN HE WAS ATTORNEY GENERAL, HE MAINTAINED HIS LEFTIST ORIENTATION AND WAS IN THE INNER CIRCLE OF ADVISORS, HAVING CONSIDERABLE INFLUENCE ON PRESIDENT RODRIGUEZ. LOCAL CRITICS ASSUME THAT HIS LOYALTY TO RODRIGUEZ LARA WAS TRANSFERRED TO ARMY COMMANDER GENERAL DURAN AND THAT AS SUPREME COURT PRESIDENT HE WILL REMAIN THE MILITARY'S STOOGE. KAROLYS, CONFIDENTIAL

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IDEOLOGICAL CONSIDERATIONS APART, IS KNOWN AS A SHADY SELF-PROMOTER WHO HARDLY ENJOYS THE RESPECT OF ECUADOR'S POLITICAL/SOCIAL ESTABLISHMENT.

5. COMMENT: THE PUBLIC REACTION TO THIS SO-CALLED JUDICIAL REORGANIZATION HAS BEEN UNIVERSALLY NEGATIVE. CRITICISM RUNS FROM BLASTS AT KAROLYS TO COMPLAINTS ABOUT DESTROYING TRADITIONAL JUDICIAL INDEPENDENCE. MOST POLITICIANS AGREE THAT THE MILITARY ACTED TO PROTECT ITS INSTITUTIONAL INTERESTS RATHER THAN FOR THE OSTENSIBLE PURPOSE OF STREAMLING JUSTICE.

6. ALTHOUGH THE NEXT LEGISLATURE WILL LIKELY REPUDIATE THESE APPOINTMENTS, THE MILITARY WILL HAVE ITS OWN PEOPLE ON THE COURT (AND THE TRIBUNAL OF CONSTITUTIONAL GUARANTEES) THROUGH THE ENTIRE TRANSITIONAL PERIOD. THIS COULD SERVE AS A STABILIZING FACTOR, PARTICULARLY IN THE ADVENT OF A BUCARAM PRESIDENCY. IF THE MILITARY PERCEIVES ITS INTERESTS SUITABLY PROTECTED BY THE COURT AND TRIBUNAL, IT MIGHT BE LESS LIKELY TO DIRECTLY INTERVENE IN THE POLITICAL PROCESS.
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